

DEC 30 2024

Clerk, U.S. Courts  
District of Montana  
Billings Division

OFFICE OF THE CLERK  
UNITED STATES DISTRICT COURT  
FEDERAL BUILDING AND U.S. COURTHOUSE  
316 N. 26 STREET  
BILLINGS, MONTANA 59101

OSCAR Foster.  
Petitioner,

CASE NO:

v.

UNITED STATES, et.al.,  
Respondent,

28 U.S.C. § 1331  
FEDERAL QUESTION  
28 U.S.C. § 2241 et. seq.  
Constitution Violation.  
TREATIES, LAW

PETITIONER DEMANDS  
\* JURY TRIAL ONLY \*

PETITION FOR A WRIT OF HABEAS  
CORPUS CUM CAUSA

- 1) THIS COURT HAS JURISDICTION UNDER PURSUANT TO HABEAS CORPUS ACT OF 1867 ;
- 2) PETITIONER WILL SHOW HE IS BEING DEPRIVED OF HIS LIBERTY AND FREEDOM FOR INVALID AND ILLEGAL REASONS;
- 3) BECAUSE: U.S.V PRINCESS, 256 F. 3d. 971, 985  
THE INDIAN STATUS OF THE DEFENDANT AND VICTIM ARE ESSENTIAL ELEMENTS UNDER THE INDIAN COUNTRY CRIMES ACT, WHICH MUST BE ALLEGED IN THE INDICTMENT AND ESTABLISHED BY THE GOVERNMENT AT TRIAL;

USV PRENTISS (10th CIR 2000).

INDICTMENT LACKING THESE ALLEGATIONS DEPRIVED DEFENDANT OF HIS FIFTH AMENDMENT RIGHT TO BE TRIED ONLY ON CHARGES PRESENTED IN AN INDICTMENT RETURNED BY A GRAND JURY.

VACATED AND REMANDED:

THE COURT WE EXERCISE JURISDICTION PURSUANT TO 28 U.S.C. § 1291. MR. PRENTISS'S INDICTMENT WAS INSUFFICIENT BECAUSE IT FAILED TO ALLEGE THE INDIAN OR NON-INDIAN STATUS OF THE DEFENDANT AND VICTIM;

BECAUSE THE CONVICTION WAS BASED UPON AN INDICTMENT WHICH FAILED TO ALLEGE AN ESSENTIAL ELEMENT, IT VIOLATED MR. PRENTISS'S FIFTH AMENDMENT RIGHT TO BE TRIED UPON CHARGES FOUND BY A GRAND JURY, WE VACATE MR. PRENTISS CONVICTION;

A) THIS PETITIONER RAISES THE SAME GROUNDS WHICH VIOLATED HIS FIFTH AMENDMENT. FOR THIS REASON, PETITIONER, NOW ASKS THIS COURT TO IMMEDIATELY VACATE HIS CONVICTION WITH PREJUDICE.

PETIT JURY, IMPARTIALITY, U.S. CONST. ART. III, § 2, CL. 3 PROVIDES: TRIAL OF ALL CRIMES, EXCEPT IN CASES OF IMPEACHMENT, SHALL BE BY JURY...

DOUBLE JEOPARDY CLAUSE. [NOR SHALL ANY PERSON BE SUBJECT FOR THE SAME OFFENSE TO BE TWICE PUT IN JEOPARDY OF LIFE OR LIMB...]

DUE PROCESS CLAUSE. [NOR SHALL ANY PERSON BE DEPRIVED OF LIFE, LIBERTY, OR PROPERTY WITHOUT DUE PROCESS OF LAW...]

GIDEON V. WAINWRIGHT, 372 U.S. 335 (1963), WAS A LANDMARK U.S. SUPREME COURT DECISION IN WHICH THE COURT RULED THE SIXTH AMENDMENT OF THE U.S. CONSTITUTION REQUIRES U.S. STATES TO PROVIDE ATTORNEYS TO CRIMINAL DEFENDANTS WHO ARE UNABLE TO AFFORD THEIR OWN.

U.S.C.A. AMEND 6, IF THE ACCUSED IS NOT REPRESENTED BY COUNSEL AND HAS NOT COMPETENTLY AND INTELLIGENTLY WAIVED HIS CONSTITUTIONAL RIGHT, THE JURISDICTION OF THE COURT IS LOST, THE JUDGMENT OF CONVICTION PRONOUNCED BY THE COURT IS VOID, AND RELEASE FROM IMPRISONMENT MAY BE OBTAINED BY WRIT OF HABEAS.

HABEAS CORPUS, YOU HAVE THE BODY, A PERSON CAN REPORT AN UNLAWFUL DETENTION OR IMPRISONMENT; IF THE CUSTODIAN IS ACTING BEYOND THEIR AUTHORITY, THEN THE PRISONER MUST BE RELEASED.

THE 1867 ACT, ENSURED THAT THE FEDERAL COURTS COULD EFFECTIVELY HEAR THE CASES TRANSFERRED TO THEM BY ISSUING A WRIT FOR HABEAS CORPUS CUM CAUSA.



FINAL SUMMATION

Wherefore, PETITIONER PRAYS that this COURT:

ENTER AN ORDER WITH PREJUDICE AUTHORIZING  
PETITIONER'S RELEASE FROM INVOLUNTARY PLACEMENT AT THE  
JOSEPH HARG CORRECTIONAL CTR 16161 MOFFAT ROAD  
LEXINGTON, OKLAHOMA 73051 AND/OR,

FOR SUCH AND FURTHER RELIEF AS THE NATURE  
OF THIS CAUSE MAY REQUIRE.

12-23-24

DATE

Oscar Foster 280248

PETITIONER

AFFIDAVIT

I HEREBY CERTIFY THAT THE ABOVE STATED MATTERS  
IN THE PETITION FOR WRIT OF HABEAS CORPUS CUM CAUSA ARE  
TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE,

INFORMATION, AND BELIEF. NO AI WAS USED TO GATHER  
THIS INFORMATION WE ARE AWARE OF.

Oscar Foster 280248

PETITIONER

WHAT WE NEED THE COURT TO DO?

MOTION TO VACATE WITH PREJUDICE

Oscar Foster  
280248 Unit 1344  
JHCC P.O. Box 548  
Lexington, OK. 73051

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59101-132716

LEGAL MAIL

OK 12/23/24

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